

REMARKS

This is in reply to the Office Action dated April 28, 2003, wherein restriction was required among the claims as follows:

Group I, claims 1-18, which the Examiner contends are drawn to a device for controlling image encoding for use in a system;

Group II, claims 19-22, 44, and 49, which the Examiner contends are drawn to an encoding system for calculating a target code rate from the encoding difficulty;

Group III, claims 23-26, 45, and 50, which the Examiner contends are drawn to an encoding system for calculating a target code rate based upon an average value of the target code rate previously determined for each program data;

Group IV, claims 27-32, 46, and 51, which the Examiner contends are drawn to an encoding system for calculating a temporary code rate for each program data from the encoding difficulty;

Group V, claims 33-38, 47, and 52, which the Examiner contends are drawn to an encoding system for calculating a temporary code rate regardless of the encoding difficulty; and

Group VI, claim 39-43, 48, and 53, which the Examiner contends are drawn to an encoding system for calculating a temporary code rate based upon an equation for calculating a temporary target code rate from the encoding difficulty.

Applicants elect, **without traverse**, Group I corresponding to claims 1-18, for further prosecution and cancel claims 19-53 in the present application.

In the April 28th Office Action, the Examiner also required an election of species among those species identified by the Examiner as being defined by:

Species I, Fig. 4;

Species II, Fig. 5;

Species III, Fig. 6;

Species IV, Fig. 9;

Species V, Fig. 10; and

Species VI, Fig. 11.

It is submitted that claims 1-18 are readable on the drawing figures as follows:

Species I, Fig. 4, upon which claims 1-3 and 10-12 read;

Species II, Fig. 5, upon which claims 1, 2, 4, 10, 11, and 13 read;

Species III, Fig. 6, upon which claims 1, 2, 5, 10, 11, and 14 read;

Species IV, Fig. 9, upon which 1, 6, 8, 10, 15, and 17 read;

Species V, Fig. 10, upon which claims 1, 7, 9, 10, 16, and 18 read; and

Species VI, Fig. 11, upon which no claims read.

Applicants elect, **without traverse**, Species I corresponding to Fig. 4, including claims 1-3 and 10-12, for further prosecution in the present application.

In the Office Action the Examiner stated that claims 1 and 10 are generic to all the species. Accordingly, if any of these generic claims are found allowable, it is appreciated that the instant requirement for an election of species will be withdrawn and all claims that include the limitations of the allowable generic claims likewise will be allowed.

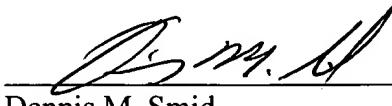
Applicants reserve their right to file one or more divisional applications, if necessary, so as to proceed with the examination of any nonelected claims.

Entry of the above amendatory matter and early examination on the merits of the claims of this application is respectfully solicited.

Please charge any fees that may be due and not otherwise paid herewith to
Deposit Account No. 50-0320.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP

By:



Dennis M. Smid
Reg. No. 34,930
(212) 588-0800